

MATTHEW F. MILLER (SBN 172661)
matt.miller@us.dlapiper.com
JEFFREY TSAI (SBN 226081)
jeff.tsai@us.dlapiper.com
TOM LIN (SBN 319911)
tom.lin@us.dlapiper.com
DLA PIPER LLP (US)
555 Mission Street, Suite 2400
San Francisco, CA 94105
Tel: 415.836.2500
Fax: 415.836.2501

Attorneys for Plaintiff CTI III, LLC

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

CTI III, LLC,

Plaintiff,

v.

BARRY DEVINE, an individual;
TRI-MERIT, LLC, an Illinois limited
liability company; and DOES 1
through 50,

Defendants.

CASE NO. 2:21-cv-02184-JAM-DB

**ORDER RE: STIPULATION TO AMEND
SCHEDULING ORDER (ECF 43)**

Judge: Hon. John A. Mendez

STIPULATION TO AMEND THE SCHEDULING ORDER

Plaintiff CTI III, LLC (“CTI”) and Defendants Barry Devine (“Devine”) and Tri-Merit, LLC (“Tri-Merit”) (collectively, the “Parties”) jointly submit this Stipulation to Amend the Scheduling Order as follows.

On September 29, 2023, the Parties entered into a stipulation for, and the Court granted, the entry of a preliminary injunction against Devine and Tri-Merit. Docket No. 37 (the “Injunction”). The Injunction compelled, among other things, forensic imaging of Devine’s and Tri-Merit’s electronic devices that may contain CTI’s documents (as defined in the Injunction). On October 6, 2023, the Court granted the Parties’ stipulation to continue the expert disclosure deadline to January 15, 2024, in order for the relief provided by the Injunction to be completed. On December 21, 2023, given unforeseen delays with the completion of the forensic imaging of Devine’s and Tri-Merit’s electronic devices, CTI and Tri-Merit jointly requested the Court to modify the expert deadlines, while leaving all other deadlines in place, so that the Parties could attempt to mediate their dispute. The Court granted CTI’s and Tri-Merit’s request.

On January 25, 2024, the forensic analyst completed its review of Devine’s and Tri-Merit’s electronic devices pursuant to the Injunction—*following a delay of nearly two months*. Given the delayed completion and delivery of the forensic results (which the Parties are still reviewing), the Parties were unable to schedule mediation with the benefit of the forensic results by February 2024, as previously anticipated.

Additionally, within January 2024, counsel for CTI and Tri-Merit met and conferred regarding document production related to certain CTI document requests that CTI contends is integral to certain liability and damages issues for its expert report. CTI and Tri-Merit agreed to attempt to utilize the work product of the forensic analyst to streamline and render more cost-efficient that document review and production process. The forensic analyst’s two-month delay in delivery of its work product similarly has delayed that subject document production, which has yet to occur as of the filing date of this Stipulation, but which Tri-Merit has estimated completion in the coming weeks.

Within the past week, the Parties agreed to engage the Honorable Judge Maria-Elena James (Ret.) to mediate this matter, but her first available mediation date is **April 22, 2024**. The Parties jointly reserved that date.

Accordingly, the Parties have stipulated to the following continuance of deadlines—which leaves the trial date unchanged—to accommodate their efforts to informally resolve this dispute.

<u>Event</u>	<u>Current Deadline</u>	<u>Proposed Deadline</u>
Mid-Litigation Statements	2/15/24	5/8/24
Expert Disclosures	2/29/24	5/10/24
Discovery Cutoff	3/22/24	5/22/24
Rebuttal Expert Disclosures	4/15/24	5/29/24
Dispositive Motions	4/19/24	5/31/24
Hearings on Dispositive Motions	6/4/24	7/12/24
Final Pretrial Conference	8/2/24	unchanged
Trial	9/16/24	unchanged

Dated: February 9, 2024

DLA PIPER LLP (US)

By: /s/ Matthew F. Miller

MATTHEW F. MILLER
JEFFREY TSAI
TOM LIN
Attorneys for Plaintiff
CTI III, LLC

Dated: February 9, 2024

**FORTIS LAW PARTNERS
NOONAN LAW GROUP**

By: /s/ Todd Noonan (as authorized on 2/9/2024)

CARA THORNTON (*Pro Hac Vice*)
TODD NOONAN
Attorneys for Defendant
BARRY DEVINE

Dated: February 9, 2023

GREENBERG TRAURIG, LLP

By: /s/ Todd Pickles (as authorized on 2/9/2024)

KURT A. KAPPES

TODD PICKLES

HENRY STROUD

Attorneys for Defendant

TRI-MERIT, LLC

ORDER MODIFYING PRETRIAL SCHEDULING ORDER

Based on the stipulation of the parties and good cause appearing, the Pretrial Scheduling Order, is **MODIFIED** as follows:

<u>Event</u>	<u>Current Deadline</u>	<u>New Deadline</u>
Mid-Litigation Statements	2/15/24	5/8/2024
Expert Disclosures	2/29/24	5/10/2024
Discovery Cutoff	3/22/24	5/22/2024
Rebuttal Expert Disclosures	4/15/24	5/29/2024
Dispositive Motions	4/19/24	5/31/2024
Hearings on Dispositive Motions	6/4/24	7/09/2024, at 01:00 p.m. ¹
Final Pretrial Conference	8/2/24	09/27/2024, at 10:00 a.m.
Trial	9/16/24	11/18/2024, at 09:00 a.m.

All other instructions contained in the January 25, 2022 Pretrial Scheduling Order (ECF No. 12) shall remain in effect.

IT IS SO ORDERED.

Dated: February 15, 2024

/s/ John A. Mendez

THE HONORABLE JOHN A. MENDEZ
SENIOR UNITED STATES DISTRICT JUDGE

¹ Calendars are subject to last minute changes. Contact the Courtroom Deputy for available dates.